

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HP TUNERS, LLC, a Nevada limited  
liability company, )  
Plaintiff, ) CASE NO.  
vs. )  
SYKED PERFORMANCE ENGINEERING, ) PLAINTIFF'S COMPLAINT FOR  
LLC, a Washington limited liability company, ) INJUNCTIVE RELIEF AND DAMAGES  
Defendant. ) JURY TRIAL DEMANDED

Plaintiff HP TUNERS, LLC, a Nevada limited liability company (“HPT”), by its attorneys for its Complaint for Injunctive Relief and Damages (“Complaint”) against Defendant SYKED PERFORMANCE ENGINEERING LLC (“SPE”) states as follows:

## **NATURE OF THE ACTION**

1. At substantial expense, hard work and ingenuity over the course of many years and thousands of man hours, HPT has developed complete, cost effective tuning and data acquisition solutions for automobile enthusiasts and professional shops.

2. Over the years, HPT has carefully guarded its proprietary products and source code in order to protect its trade secrets, specifications and software.

3. SPE wrongfully obtained and possesses HPT's confidential and proprietary source code, and has misappropriated HPT's trade secrets and proprietary information.

COMPLAINT FOR INJUNCTIVE RELIEF  
AND DAMAGES - 1

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1 4. This is an action against Defendant for successor liability.

2 **PARTIES**

3 5. HPT is a Nevada limited liability company with its principal place of business in  
4 Buffalo Grove, Illinois. None of HPT's members reside in this judicial district.

5 6. SPE is a limited liability company organized and existing under the laws of  
6 Washington with its principal place of business in Gig Harbor, Washington. SPE is a successor in  
7 interest to Syked ECU Tuning, Inc.

8 7. HPT filed an action in the United States District Court for the Western District of  
9 Washington against Sykes-Bonnett, Martinson, and Syked ECU, Tuning, Inc. ("Syked ECU")  
10 entitled *HP Tuners, LLC v. Sykes-Bonnett, et al.*, Case No. 3:17-cv-05760 ("KSB Litigation").

11 8. On May 8, 2018, HPT filed its First Amended Complaint for Injunctive Relief and  
12 Damages in the KSB Litigation ("KSB Complaint", a copy of which is attached hereto as  
13 **Exhibit A**). Paragraphs 1 through 81 of the KSB Complaint are incorporated by reference, and  
14 repeated and realleged as if fully set forth herein. *See Exhibit A.*

15 9. On or about May 8, 2019, during the course of the KSB Litigation, the principals  
16 of Syked ECU formed Defendant SPE as a new entity and, thereafter, voluntarily dissolved Syked  
17 ECU.

18 10. Notwithstanding the voluntary dissolution of Syked ECU and formation of  
19 Defendant SPE as a new entity, the business of Defendant SPE remains identical to that of its  
20 predecessor, Syked ECU, Sykes-Bonnett and Martinson are the owners and principals of both  
21 entities, the website for both businesses is the same ([www.sykedecutuning.com](http://www.sykedecutuning.com)), and the principal  
22 business address for Defendant SPE at 1602 Point Fodick Drive NW, Gig Harbor, Washington  
23 98335, has remained and continued at this same address as Syked ECU.

24 11. Defendant SPE is a successor in interest to Syked ECU.

1 **JURISDICTION AND VENUE**

2 12. This Court has jurisdiction over the parties and subject matter in this civil action  
3 pursuant to 28 U.S.C. § 1332(a) in that the parties are citizens of different states and that the matter  
4 in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

5 13. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) in that  
6 Defendants are residents of the State in which the district is located and a substantial part of the  
7 events or omissions giving rise to the claims asserted in this Complaint occurred in this judicial  
8 district.

9 **COUNT I**

10 **SUCCESSOR LIABILITY**

11 14. HPT repeats and realleges ¶¶ 1 through 166 of the KSB Complaint, attached hereto  
12 as Exhibit A and incorporated in its entirety, as if fully set forth herein

13 15. Defendant SPE has acquired the assets of Syked ECU. Prior to this acquisition,  
14 Defendant SPE had actual notice of HPT's claims against Sykes-Bonnett, Martinson, and Syked  
15 ECU in the KSB Litigation.

16 16. There was no consideration, or nominal or insufficient consideration, running to  
17 Syked ECU from Defendant SPE for the assets being sold.

18 17. Defendant SPE's purchase of the assets of Syked ECU is a de facto merger or  
19 consolidation of Syked ECU into and/or with Defendant SPE.

20 18. Defendant SPE, has the same business, same owners and principals, same website,  
21 and same address as Syked ECU. SPE operates from the same address as Syked ECU, with the  
22 same or similar signage, office equipment, and inventory, and believed to be operating under the  
23 same lease as Syked ECU. Defendant SPE has the same contact information, same employees,  
24 and holds itself out to the public and others as identical to Syked ECU. For these reasons,  
25 Defendant SPE is a mere continuation of Syked ECU.

19. The officers, directors, stockholders, and/or members of Defendant SPE and its predecessor Syked ECU have a common identity, namely Sykes-Bonnett and Martinson.

20. Defendant SPE was formed by Sykes-Bonnett and Martinson, and purchased the assets of Syked ECU, for the fraudulent purpose of escaping liability which includes, but is not limited to, potential liability in the KSB Litigation.

21. The asset purchaser, Defendant SPE, represents merely a new hat for the asset seller and predecessor entity, Syked ECU, and also for Sykes-Bonnett and Martinson.

22. There was substantial or complete continuity in the operation of the business conducted by Sykes-Bonnett, Martinson, and Syked ECU both before and after the sale of assets from Syked ECU to Defendant SPE.

23. As a direct and proximate result of Defendant's ongoing violations and the misconduct alleged herein, HPT has suffered, and will continue to suffer substantial injuries, loss and damages in an amount to be proven at trial.

## **PRAYER FOR RELIEF**

**WHEREFORE**, HPT respectfully prays for judgment against Defendant, **SYKED PERFORMANCE ENGINEERING LLC**, and in favor of HP Tuners, LLC as follows:

1. Any relief and/or damages entered in favor of Plaintiff and against Defendants in the KSB Litigation shall be entered against SYKED PERFORMANCE ENGINEERING LLC on the basis of successor liability; and

2. An award of such other and further relief as the Court deems just and proper.

Dated this 1<sup>st</sup> day of October, 2020.

HEURLIN, POTTER, JAHL, LEATHAM,  
HOLTMANN & STOKER, P.S.

s/ Stephen G. Leatham

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